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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,253	04/08/2004	Udo J. Vetter	22776	8401
535	7590	09/30/2005		
THE FIRM OF KARL F ROSS 5676 RIVERDALE AVENUE PO BOX 900 RIVERDALE (BRONX), NY 10471-0900			EXAMINER AHMED, AAMER S	
			ART UNIT 3763	PAPER NUMBER

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/821,253

Applicant(s)

VETTER ET AL.

Examiner

Aamer S. Ahmed

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 2 and 4 is/are objected to.
- 8) ☒ Claim(s) 1-7 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of claims 1-4 in the reply filed on 08/10/2005 is acknowledged. The traversal is on the ground(s) that method claim 5 is of the same scope as claim 1. This is not found persuasive because a materially different process can make the apparatus.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

The disclosure is objected to because of the following informalities: on page 2 line 8, it is suggested that the term “of” be inserted between the terms “method” and “manufacture”.

Appropriate correction is required.

Claims 2 and 4 are objected to because of the following informalities: the “inner cap” referred to claims 1 is referred to as the “inner cup”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

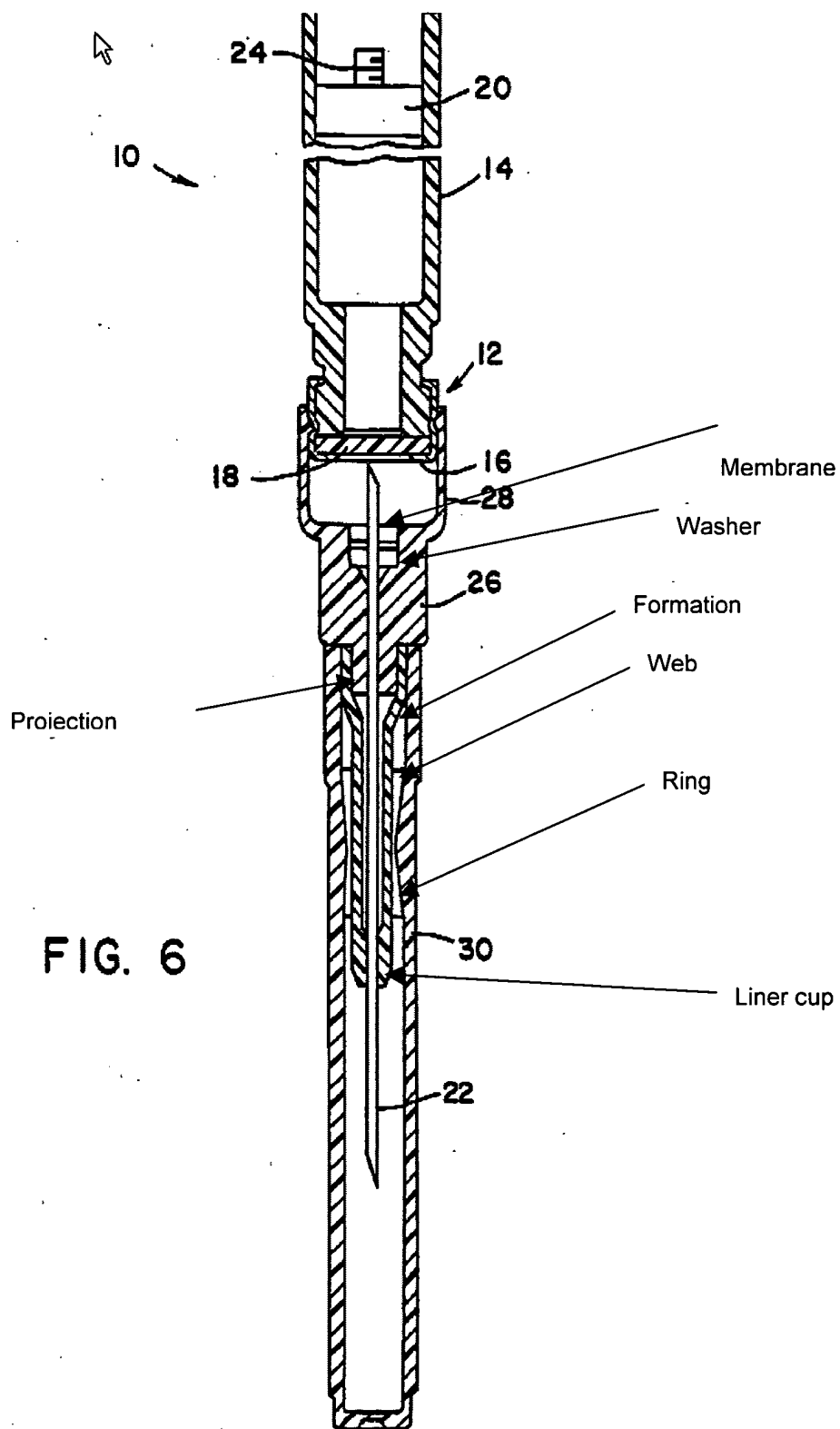
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergstresser et al U.S. Patent Number 5,447,500. Bergstrasser et al (‘500) discloses a hypodermic syringe comprising a hollow body adapted to hold a liquid and having an axially outwardly open end; an inner cap (26) fitted over the body end (12); an axially extending needle

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(22) seated in the inner cap (26) and having an outer point projecting axially outward from the inner cap (26) and an inner point projecting axially inward from the inner cap (26) toward the body (12). A washer (see figure 6) between the inner cap and the body end (12), having a central hole (see figure 6) into which the inner point of the needle (22) engages, and provided with a membrane (see figure 6) closing the hole (see figure 6) and spaced axially inward from the inner point; an outer cap (30) fittable over the inner cap (26) and needle (22); a clamp ring (see figure 6) engageable around the inner cap (26); a frangible web (see figure 6) connecting the ring (see figure 6) to the outer cap (30); and interengaging formations on the ring (see figure 6) and on the inner cap (26) for releasably retaining the outer cap (30) in an outer position spaced axially outward of the body (12) and in which an interior of the outer cap (30) is open to the exterior and an inner position spaced axially closely to the body and in which the interior of the outer cap (30) is not open to the exterior (see figure 6). Furthermore, Bergstresser et al ('500) discloses that the device comprises a liner cup (see figure 6) inside the outer cap (30), receiving the outer point of the needle (22), and clamped in the inner position between the outer cap (30) and the inner cap (26); and wherein the inner cap (26) is formed with a central outwardly extending projection (see figure 6) from which the needle (22) extends axially outward and that fits snugly in the liner cup (see figure 6) in the inner position.



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bergstresser et al ('500) in view of Kuracina et al U.S. Patent Number 5,879,337. Bergstresser et al ('500) discloses the syringe device as described above in reference to claims 1, 2, and 4. Bergstresser et al ('500) fails to disclose that the liner cup is of rubber. Kuracina et al ('337) describes a similar device in which the liner cup (72) is made of rubber (see figure 79 and col. 27 line). It would have been obvious to one having ordinary skill in the art at the time of invention by the applicant to modify the syringe device of Bergstresser et al ('500) by making the liner cup of rubber as taught by Kuracina et al ('337) in order to prevent leakage from the needle (Kuracina '337 col. 27 line 28).

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4240425 A	Akhavi; David S.
US 6102893 A	Aneas; Antoine
US 20010016714 A1	Bell, David et al.
US 6123688 A	Botich; Michael J. et al.
US 6186980 B1	Brunel; Marc
US 5755696 A	Caizza; Richard J.
US 20050101918 A1	Chen, Chang-Tzu et al.
US 2679246 A	COHEN MILTON J
US 3413974 A	COHEN MILTON J
US 2847996 A	COHEN MILTON J et al.
US 5125908 A	Cohen; Milton J.
US 20040162523 A1	Conway, Hugh T.
US 2371086 A	DAVID WATSON EDWARD et al.
US 5817064 A	DeMarco; Anthony O. et al.
US 20030236501 A1	Donnan, Jeremy Francis et al.
US 3889673 A	Dovey; Brian H. et al.
US 5624405 A	Futagawa; Hitoshi et al.
US 5505705 A	Galpin; Kim R. et al.
US 5215535 A	Gettig; William A. et al.
US 6736794 B2	Grabis; Dietrich W. et al.
US 4300678 A	Gyure; Sandor et al.
US 4947863 A	Haber; Terry M. et al.
US 5067948 A	Haber; Terry M. et al.
US 5314414 A	Hake; Lawrence W. et al.
US 5980495 A	Heinz; Jochen et al.
US 20050075611 A1	Hetzler, Kevin G. et al.
US 6432088 B1	Huang; Wu-Shun et al.
US 4986818 A	Imbert; Claude et al.
US 3098482 A	JAMES O'SULLIVAN
US 5741236 A	Kakiuti; Makoto
US 6068614 A	Kimber; Michael Browning et al.
US 6860871 B2	Kuracina; Thomas C. et al.
US 6629959 B2	Kuracina; Thomas C. et al.
US 4892521 A	Laico; Joseph P. et al.
US 5304148 A	Lannoye; Randy J. et al.
US 5971966 A	Lav; Steffen
US 5338310 A	Lewandowski; Raymond D.
US 5295975 A	Lockwood, Jr.; Hanford N.
US 3637072 A	Narusawa; Shozo et al.
US 5217025 A	Okamura; Toshio
US 5405332 A	Opalek; A. Allen
US 6706019 B1	Parker; David W. et al.
US 4334536 A	Pfleger; Frederick W.

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US 4720285 A	Pickhard; Ewald
US 6620136 B1	Pressly, Sr.; William B. S. et al.
US 5843047 A	Pyrozyk; Ronald Robert et al.
US 6736800 B2	Rindlisbacher; Christoph
US 4826491 A	Schramm; James J.
US 4781697 A	Slaughter; Robert
US 5997513 A	Smith; Jerry A. et al.
US 4964866 A	Szwarc; Joseph M.
US 5571092 A	Thompson; Nancy L.
US 5669888 A	Trapp; Claude
US 4872552 A	Unger; Larry E.
WO 59563 A1	VETTER, UDO J et al.
US 5354287 A	Wacks; Jonathan L.
US 4927018 A	Yang; Herbert et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aamer S. Ahmed whose telephone number is 571-272-5965. The examiner can normally be reached on Monday thru Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



A.A.



**NICHOLAS D. LUCCHESI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**